

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

APPLETON PAPERS INC. and NCR CORP.,

Plaintiffs,

No. 08-C-00016

v.

GEORGE A. WHITING PAPER CO., *et al.*,

Defendants.

NCR CORPORATION,

Plaintiff,

No. 08-C-00895

v.

KIMBERLY-CLARK CORPORATION, *et al.*,

Defendants.

**AGREED ORDER CONCERNING THIRD STIPULATION
REGARDING RESERVED CLAIMS OF THE UNITED STATES OF AMERICA**

Based upon the “Third Stipulation Regarding Reserved Claims of the United States of America” (the “Third Stipulation”) between the United States of America (the “United States”) and the City of Green Bay and Brown County (the “Stipulating Local Governmental Parties”),

IT IS HEREBY ORDERED as follows:

1. The United States need not assert the United States’ Reserved Claims – as that term is defined in the Third Stipulation – against the Stipulating Local Governmental Parties before December 1, 2010.

2. The United States may assert the Reserved Claims against the Stipulating Local Governmental Parties, without leave of Court, at any time on or before December 1, 2010.

3. Nothing in this Order shall affect the time period for when the United States must assert claims against parties other than the above-referenced Stipulating Local Governmental Parties.

4. The Stipulating Local Governmental Parties shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, merger and bar, claim-splitting, or other defenses based upon any contention that the Reserved Claims should have been brought in the United States' responsive pleadings in the above-captioned actions, or otherwise between February 15, 2010 and December 1, 2010. The Stipulating Local Governmental Parties reserve the right to assert any such defense or claim with respect to any of the Reserved Claims that are first asserted after December 1, 2010.

5. The Stipulating Local Governmental Parties agree that the period commencing on February 15, 2010 and ending on December 1, 2010, inclusive (the "Tolling Period"), shall not be included in computing the running of any statute of limitations potentially applicable to any action brought by the United States on the Reserved Claims. Similarly, the Stipulating Local Governmental Parties agree that any defenses of laches, estoppel, or waiver, or other similar equitable defenses based upon the running or expiration of any time period shall not include the Tolling Period for the Reserved Claims.

6. The Stipulating Local Governmental Parties shall not assert, plead, or raise against the United States in any fashion, whether by answer, motion or otherwise, any defense of laches, estoppel, or waiver, or other similar equitable defense based on the running of any statute of limitations during the Tolling Period or the passage of time during the Tolling Period in any action brought on the Reserved Claims.

SO ORDERED this 19th day of October, 2010.

s/ William C. Griesbach
William C. Griesbach
United States District Judge